

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 7090**

**BILL NUMBER:** HB 1151

**NOTE PREPARED:** Feb 25, 2004

**BILL AMENDED:** Feb 25, 2004

**SUBJECT:** Absentee Ballots.

**FIRST AUTHOR:** Rep. Mahern

**FIRST SPONSOR:** Sen. Lawson

**BILL STATUS:** 2<sup>nd</sup> Reading - 2<sup>nd</sup> House

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill has the following provisions:

The bill defines "household" for election code purposes. The bill exempts 16 and 17 year olds who serve as precinct election workers from obtaining a work certificate or complying with certain restrictions regarding hours worked on school days.

The bill requires an individual who appears to vote after the individual's registration is placed on inactive status under a voter list maintenance program to affirm that the individual currently resides at the address shown on the individual's registration before the individual is permitted to vote.

The bill specifies the requirements for a county voter registration office to conduct a voter list maintenance program. The bill requires an absentee ballot application to be filed within specific times. The bill requires an individual who files an absentee ballot application for another individual to sign an affidavit attesting to certain information. The bill requires an applicant for an absentee ballot to affirm the content of the application under the penalties for perjury. The bill permits an absentee voter board or the circuit court clerk to compare the signature on an absentee ballot application to the signature on the voter's registration record to make certain determinations regarding the validity of an absentee ballot. The bill permits a county election board member or an absentee voter board member to file an affidavit alleging that an absentee ballot application has not been filed according to law.

The bill exempts a polling place located outside of a precinct or township in an accessible facility from being located in a public building. The bill with the unanimous consent of both county election boards, permits a polling place to be located in an accessible facility in an adjoining county. The bill specifies the procedures that may be used to designate the chute.

The bill provides that a person may not engage in electioneering in the presence of an individual who possesses an absentee ballot. The bill requires certain persons who deliver an absentee ballot to a voter to affirm certain facts under penalties for perjury. The bill makes other changes relating to absentee ballots, eligibility of individuals serving as watchers, and the recounting of ballots.

The bill establishes new criminal offenses relating to fraud and misrepresentation in elections and conspiracy involving false or fraudulent absentee ballot or voter registration applications. The bill permits an individual conducting an accessibility survey to enter the polls on election days in 2004. The bill requires the Legislative Council to direct a legislative study committee to study existing criminal penalties for election law violations. The bill legalizes the deposit of oaths of political subdivision officers made after the statutory deadline and before March 1, 2004.

**Effective Date:** January 1, 2004 (Retroactive); Upon passage; July 1, 2004.

**Explanation of State Expenditures:** *Summary:* The Election Commission would be required to prescribe absentee ballot application forms to comply with the bill by no later than March 31, 2004. Application forms would include a section that would require an applicant to swear the application was filled out in truthful manner under penalty of perjury. Additionally, the Commission would need to prescribe an official affidavit form for county election board use for individuals filing absentee ballots on behalf of other voters.

The Election Division spent about \$2,600 for printing forms in FY 2003. The Commission's resources should be sufficient to develop the forms necessary to comply with the bill.

*Legislative Council-* Under the bill, the Legislative Council would be required to assign an interim or statutory committee a charge to study the existing criminal penalties for election law violations and report all findings to the Legislative Council by electronic format not later than November 1, 2004. This can be covered under their existing budget for interim.

*Criminal Penalties-* The bill introduces several new criminal penalties, including Class C felony, Class D felony, and Class A misdemeanor provisions. Additionally, the bill upgrades several existing misdemeanor offenses to a felony.

A Class C felony is punishable by a prison term ranging from two to eight years depending upon mitigating and aggravating circumstances. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class C felony offenders is approximately two years. The average length of stay for all Class D felony offenders is approximately ten months.

**Explanation of State Revenues:** *Criminal Penalties-* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class C felony or a Class D felony is \$10,000. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

**Explanation of Local Expenditures:** (Revised) *Voter List Maintenance Program-* Under the bill, county

voter registration offices (CVROs) would have the option to conduct a voter list maintenance program. *If* a CVRO began such a program, the CVRO would have to mail a registration notice to voters. The notification would have to be sent with first class postage and include a prepaid postage return card for the voter to fill out. Additional local expenditures would be dependent on whether the county chose to conduct a maintenance program and the number of voters registered in the county.

*Background-* The cost to send a certified standard business letter of one ounce weight or less is \$0.37 for first class postage, \$2.30 to send certified, and \$1.75 for a return receipt.

*Precinct Committee and State Convention Delegate Candidates-* Under the bill, candidates would no longer be entitled to have a recount on votes cast for either of these offices. This provision could save the circuit court clerk and the court of jurisdiction administrative time if fewer filings of paperwork for a recount were to occur. The local unit would forgo the filing fees with the court that a petitioner must submit when requesting a recount.

Under the bill, recount commissions would have certain changes made to their duties when conducting a recount. Given that petitioners of a recount must provide either cash or bond the cost of the recount, this provision should have a minimal impact on local expenditures.

*Assistance to Persons with Disabilities & Improper Applications-* The bill would give local election officials additional responsibilities with regard to assisting persons with disabilities to fill out absentee ballot applications. The county election board would be able to deny applications for absentee ballots if applications were not filled out in compliance with the instructions provided in the bill. Under the bill, election officials would be able to file an affidavit that attested to improper procedures for filing an application for an absentee ballot. The county election board would conduct a hearing to approve or deny affidavits.

Under the bill, county election boards would be required to provide a copy of the “Absentee Voter’s Bill of Rights” in an absentee ballot mailed to a voter. This provision would increase the printing costs to the county election board in order to provide copies of the “Absentee Voter’s Bill of Rights.”

*Illegal Voter Affidavits-* Under current law, the inspector and a judge deliver a sealed bag of affidavits to the county election board after an election. Under the bill, county election boards would be required to perform the following additional administrative responsibilities upon receipt of an affidavit bag: (1) Remove affidavits from the bag, (2) Mail a copy of each affidavit to the Secretary of State, (3) Replace the affidavits within the bag, (4) Reseal the bag and include endorsement of each county election board member.

*Criminal Penalties-* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

*Accessible Polling Places-* The bill could create some cost savings for counties when determining accessible polling locations. County election boards would be required to unanimously agree to combine a polling place for voters of one county to vote at an accessible polling location in another county.

*Affirmation/Confirmation of Address-* Under the bill, county voter registration offices that send cards to a voter for change of residence that was not returned by the voter would have to check and confirm the voter’s address before the voter may vote. This provision would increase the administrative responsibilities of the county voter registration office.

**Explanation of Local Revenues:** *Criminal Penalties-* If additional court actions occur and a guilty verdict

is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

**State Agencies Affected:** Legislative Council; Indiana Election Division; Department of Correction.

**Local Agencies Affected:** Counties; trial courts, local law enforcement agencies.

**Information Sources:** Indiana Election Division, (317) 232-3939; Election Systems and Software (317) 913-0230; State Budget Agency: *FY2003 General and Rainy Day Fund Summaries*, BUDSTARS; Indiana Sheriffs' Association, Department of Correction; Auditor of State, Object Trial Balance 6/30/03; United States Postal Service.

**Fiscal Analyst:** Chris Baker, 317-232-9851.